

MINUTES OF THE CITY OF BURLINGTON  
CITY COUNCIL MEETING  
December 7, 2010

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on December 7, 2010, at 7:00 p.m.

Mayor Ronnie K. Wall presided

Councilmembers Present: Mayor Wall, Councilmembers Huffman, Butler, Ross and Faucette

Councilmembers absent: None

Harold Owen, City Manager: Present

Robert M. Ward, City Attorney: Present

Jondeen D. Terry, City Clerk: Present

INVOCATION: Councilmember Jim Butler

MINUTES

Mayor Wall called for approval of the City Council minutes of the meeting of November 16, 2010.

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Faucette, it was resolved unanimously to approve the minutes of the meeting held on November 16, 2010.

ADOPTION OF AGENDA

Upon motion by Councilmember Butler, seconded by Councilmember Ross, it was resolved unanimously to adopt the agenda.

## PUBLIC HEARINGS

### ITEM 1: Proposed Annexation Areas

Mayor Wall announced that public hearings had been scheduled concerning the following proposed City-initiated annexation areas:

1. Alamance-Guilford County Line Area
2. Garden Road Area
3. Random Lane North Area
4. Random Lane South Area
5. Westview Terrace Area
6. Crouse Lane Area
7. Kirkpatrick Road Medical Offices Area
8. Greystone Condo Area
9. Airport Area

He stated that public hearings would be conducted but that no decisions would be made. He said that the goal for the meeting was to give everyone a chance to speak and be heard. He said the proposed annexation ordinances would be considered by Council at its December 21, 2010, meeting.

Mayor Wall explained that Mr. Russ Smith would review the plan and report for services for all nine areas. He said that since there had been three separate breakout sessions at the public information meeting on November 10, 2010, at the Kernodle Senior Center, Mr. Smith would respond to the six most frequently asked questions.

Mr. Russ Smith provided an overview and explanation of the Report of Plans for Services for the nine areas. He stated the effective date of an annexation would be December 31, 2011.

Mr. Smith stated that for an area to be eligible for annexation, the area must meet the following statutory standards:

- The area must be adjacent or contiguous to the City;
- At least one-eighth (12.5%) of the area's aggregate external boundary must coincide with the present City limits; and,
- No part of the area is included within the boundaries of another municipality.

He stated that all proposed annexation area met these three requirements and that all areas met the annexation standards to be developed for urban purposes.

Mr. Smith reviewed the plans for the extension of municipal services including the financial plan for extension of municipal services and the statement of financial impact.

Mayor Wall reviewed the following ground rules and asked that each person present be considerate of one another.

- Each speaker must be recognized and approach the podium prior to speaking.
- Each speaker must state their name and address.
- Citizens may speak a maximum of three minutes.
- After each annexation area public hearing is closed, no one will be allowed to speak on that matter.
- The Public Comment Period held at the end of every Council meeting is for items not on the agenda.
- Please be respectful and do not talk among yourselves while others are speaking. This can be disruptive.

#### Alamance-Guilford County Line Area - Public Hearing

Joel Isley, properties of K&J of Springwood, PO Box 47, Gibsonville, NC, stated he was not against controlled growth. He said he was not in a "doughnut hole", that he was located on the Guilford County side of the county line. He said that on the one occasion that emergency response was needed, it was fast and efficient. He said that it was the wrong time economically and politically to annex. He strongly requested that the Alamance-Guilford area not be annexed until there was more growth.

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Faucette, it was resolved unanimously to close the public hearing.

#### Garden Road Area - Public Hearing

Lisa Bowes, 1318 Berkshire Road, stated petitions were circulated and that the majority signed in opposition of the annexation. She said it appeared the City was interested in the additional one million dollars revenue but asked Council to consider the impact and hardship that it would put on residents.

Lenora Saunders, 1326 St. Mark's Church Road, expressed dissatisfaction with the construction of Joe Davidson Park and University Drive. She stated she should not be punished with higher taxes due to the City's lack of planning. She said she did not want to be taken into the City limits.

Carl Eagle, 230 Kent Road, Salisbury, NC, explained that he was not a resident of the proposed annexation area but that he was there to make comments for Ms. Charlotte Fitzgerald, 1408 Willow Oak Drive, who was unable to attend the public hearing. He stated that Ms. Fitzgerald was 73 years old, a former school teacher and was retired from Glen Raven Inc. Ms. Fitzgerald's statement said that there were seven residents on her street, five who were widows on a fixed income. Ms. Fitzgerald's statement said that she didn't need or want City services. Ms. Fitzgerald's statement said she was not responsible for the doughnut holes that had been created.

Kendall Overman, 325 Glenwood Avenue, stated his property was located off St. Mark's Church Road and Rural Retreat Road. He said his building supply business on St. Mark's Road had seen decreasing sales, thinner margins and many customers filing for bankruptcy. He urged the City Council to think about what was before them and to consider the people who were already in a bad situation. He said the additional taxes would add to a lot of peoples' misery.

Jerry Parker, 1261 St. Marks Church Road, stated he was in favor of the annexation because he was for public water and public sewer. He explained that he was an environmental biologist and had spent 27 years with the North Carolina Department of Environment and Natural Resources (NDENR). He said that septic systems were the number one cause of ground pollution. He stated that there were lots of health risks associated with ground water pollution. He said that health was more important than wealth.

Joseph Short, 3292 Garden Road, Preston Village, said he was not opposed to annexation. He said he did oppose taking Preston Village into the City and taxing those residents at the same rate as other citizens. He explained that the City would not take responsibility for garbage pickup, street lights or street maintenance. He stated that if the City wanted to take them in the City limits and not provide them with the full range of services, then the City should tax the people in Preston Village at a lower rate.

Charlie Hrdlicka, 1022 Garden Court, stated there were lots of positive things to be gained from the annexations. He said that City services and safety of residents were good investments in the future of our community.

Catherine Heath, 7024 Robbie Drive, Raleigh, NC, Director of Stop NC Annexation, stated that there had been lots of discussion about problems with the current annexation laws. She commended staff for providing sewer request forms and for having an inviting, open and friendly staff in the lobby. She stated that the annexation law needed to be examined and that this was an odd time to consider annexation with current economy. She reiterated that most of these citizens were retired and on a fixed income.

Ms. Heath said there were paper towns having forced annexations where no services were offered. She said when taking away the voice of people, there should at least be meaningful services provided. Ms. Heath asked Council to consider the hardship the annexations would cause.

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Louis Perez, 3210 Garden Road, stated he did not have a need for City services and that his neighbors agreed. He stated that traffic was a big problem and that people threw garbage in his front yard. He said he could not support the City's plans to annex.

Mayor Wall asked if anyone else desired to speak.

Upon motion by Councilmember Faucette, seconded by Councilmember Ross, it was resolved unanimously to close the public hearing.

#### Random Lane - North Area - Public Hearing

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Butler, it was resolved unanimously to close the public hearing.

#### Random Lane - South Area - Public Hearing

Robert Giles, 1510 Wales Court, addressed Council for his parents who reside at 203 Random Lane. Mr. Giles said that the City provided valuable services but that his parents did not desire to be in the City. He said they have lived on this property for 31 years and have all the services they want and that they did not mind paying for them. He reiterated that they wanted to remain the county and that they viewed the annexation as an unjust tax hike.

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Councilmember Butler, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to close the public hearing.

#### Westview Terrace Area - Public Hearing

Louis Perez, 3210 Garden Road, stated he did not have a need for City Services and that his neighbors agreed. He stated that traffic was a big problem and that people threw garbage in his front yard. He said he could not support the City's plans to annex.

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Ross, it was resolved unanimously to close the public hearing.

#### Crouse Lane Area - Public Hearing

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Councilmember Butler, seconded by Councilmember Faucette, it was resolved unanimously to close the public hearing.

#### Kirkpatrick Road Medical Offices area - Public Hearing

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)



Mayor Wall asked if anyone else desired to speak.

Upon motion by Councilmember Faucette, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to close the public hearing.

#### Greystone Condo Area - Public Hearing

Donald Smith, 3027 Maple Avenue, stated that he and his wife bought their home four years ago and retired two years ago. He said he bought it because it was in the county. He urged Council not to annex the property which would create a significant increase in expenses if they were required to pay additional taxes.

Jerry Cummings, Greystone Condominiums. He stated that there were 24 parcels in the area and that most of the residents were retired. He said no additional services were needed because utilities, etc. were paid through homeowner's dues. He asked why the rush. He said to wait and see what the state decided to do.

Olin Campbell, 3027 J-1 Maple Avenue, stated he had enjoyed being a citizen of Burlington and that he and his wife sold their homes and decided to buy at Greystone. He said most of the residents were retired and on fixed incomes. He said that investments have declined and that every other check went to MedCap Pharmacy. He said they selected Greystone because it was not in the City. He asked Council not to rush and to wait and see what the state was going to do.

Robert Hentze, former president and vice president of Greystone Condominiums, stated that of the 72 units over 40 were owned by single ladies. He said they pay \$100 per month homeowner's dues which covered the electric bill, insurance, sanitation, lawn maintenance and garbage pickup. He said that they would not be getting anything from the City. He asked that Council give it careful consideration.

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He

stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Councilmember Butler, seconded by Councilmember Faucette, it was resolved unanimously to close the public hearing.

#### Airport Area - Public Hearing

Larry Greene, 2329 Anthony Road, said he had lived since there 1965 and never had a well problem. He and his wife are 77 years of age and that she had bypass surgery and they had lots of extra bills. He said additional taxes would be a burden and that being in the City would not do anything for them.

Harrell Barnwell, 2333 Anthony Road, stated he did not want to be a part of the City. He said that he was on social security and his wife was unemployed. He stated he was told that some of the property not included in the annexation area was owned by the Koury's and the Powell's. He stated he and his neighbors could not afford additional taxes.

Robert Mosely, 2309 Anthony Road (Mr. Mosely signed up but did not speak.)

Ernie Farley, 1504 Anthony Road, stated he developed property on Anthony Road in 1998. He asked not to be annexed. He said if the annexation was approved, he would be asking for an incentive or moving to another county or state.

Roger Alderman, 3030 Maple Avenue, stated that he developed six buildings in Alamance County beside Splawn Belting to avoid the Jordan Lake Rules. He said he selected that property because it had City water and sewer, was close to the airport and had easy access to the interstate. He said the only benefit he would receive would be street lights. He said he enjoyed living in the City of Burlington but for industrial purposes he would not have any garbage pickup, no sidewalks and that he put trash in dumpsters. He stated he had never had a fire call. Mr. Alderman opposed the annexation stating it would make a hardship on his tenants. He said he had lost six tenants to bankruptcy in two years.

John Bowman, 2359 Anthony Road, said he had been there for 40 years, would soon be 82 years of age, could not work and that he was at his wit's end as far as paying taxes and just living. He said he was against being annexed.

Mike Waddell, stated he owned Industrial property at 2056 Willow Lane. He said he built the building in 1993 because it was in the county. Mr. Waddell said his building was basically manufacturing and that he leased 22,000 square feet to another company. He said small businesses were struggling. He said that if the annexation went through, his tenant had said he was moving. He asked Council to put themselves in his shoes. He said it was not a good time and that he was counting on Mayor Wall.

Debbie Hinshaw, 2309 Air Park Drive, stated she had a small construction business. She said she went without a paycheck for three months to make sure her bills got paid. She said if her business was forced into the City, she would seriously consider closing. She asked Council to reconsider what they were proposing and to have a heart.

Joe Tickle, 3148 Garden Road, stated that he was listed on Garden Road but that he was not in the subdivision. He said that if the annexations passed, it would be un-American to impose more taxation without the citizens having any input. Mr. Tickle suggested letting the citizens' vote. He said if his neighbors wanted to be in the City, he would be okay with it. He also suggested waiting until the new laws had passed and then let the revised laws serve as a guideline to annexing this property. He stated that "doughnut holes" were created by the City. Mr. Tickle said the representatives, senator and Alamance County Commissioners were against the forced annexations. He said that it was not the right time when the economy was in a recession. (NOTE: Mr. Tickle requested that his comments be included in every annexation area public hearing.)

Mayor Wall asked if anyone else desired to speak.

Upon motion by Councilmember Ross, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to close the public hearing.

Mayor Wall stated the public hearings were concluded and that there would be a ten minutes intermission. He thanked everyone for being present.

## TEN MINUTE INTERMISSION

### ISSUANCE OF REVENUE BONDS

City Manager Owen pointed out that on the "Consent Agenda" and under "New Business" there were several items related to the wastewater treatment plant project and upgrades of the dams. He explained that the City Council was required to approve the revenue bonds. He reiterated that the Build America Bonds end December 31, 2010, and that by completing the work this year, there would be a significant savings for the City.

### ITEM 2: CONSENT AGENDA

- A) To award a contract to Underwater Construction Corporation in the amount of \$241,632.00, to make repairs to the existing Stony Creek dam low level outlet.
- B) To award a contract to Haren Construction Company in the amount of \$5,708,000.00 for the South Burlington Wastewater Treatment Plant Filter Replacement project.
- C) To award a contract to ASI Constructors, Inc., in the amount of \$4,036,925.00 for the Burlington Dams Rehabilitation project.
- D) To approve a final plat of Phase Seven, Woods at Grove Park Townhomes. The property is located on the south side of Kingsbury Court and south of Trail Six as shown on plans by Simmons Engineering and Surveying, Inc., dated September 27, 2010, and containing three lots.
- E) To approve a final plat of the Melinda McPherson Property located on the south side of Eric Lane and west of Bonnie Lane as shown on plans by Carolina Cornerstone Surveying and Land Design dated October 30, 2010, and containing two lots.

F) Budget Amendment 2011-21 - CDBG Reallocation of Funds

BA2011-21

Decrease Expenditures:

|                |                                 |        |
|----------------|---------------------------------|--------|
| 554-60104-6817 | 09-10 RTS Mebane St Fac Repairs | \$ 175 |
| 554-60105-6847 | 10-11 FAS Trans House Upgrade   | 434    |
| 554-60103-6841 | 08-09 Sidewalk Improvements     | 4,253  |
| 554-60105-6832 | 10-11 Install W&S Lines-Hunt St | 21,145 |
| 554-60104-6841 | 09-10 Maple Avenue Sidewalk     | 40,698 |

Increase Expenditures:

|                |                                |          |
|----------------|--------------------------------|----------|
| 554-60105-6845 | 10-11 Fairchild Park Improv    | \$11,285 |
| 554-60105-6849 | 10-11 Picnic Site Improv       | 12,360   |
| 554-60105-6848 | 10-11 North Park Improv        | 13,060   |
| 554-60105-6850 | 10-11 Playground Equip Upgrade | 30,000   |

Upon motion by Councilmember Butler, seconded by Mayor Pro Tem Huffman, it was resolved unanimously to approve the foregoing consent agenda.

NEW BUSINESS:

ITEM 3: Adopt Resolution

Mayor Wall announced that the City Council would consider adopting a resolution and order authorizing the issuance and sale by the City of Burlington, North Carolina, of its combined Enterprise System Revenue Bonds, Series 2010A and combined Enterprise System Revenue Bonds, Series 2010B (Taxable Build America Bonds) for issuance of \$23,700,000 of revenue bonds and authorizing the City Clerk to attest six original documents.

Councilmember Ross moved for the adoption of the following resolution:

10-24

The City Council of the City of Burlington, North Carolina held a regular meeting in Council Chambers of the Municipal Building located at 425 South Lexington Avenue in Burlington, North Carolina, the regular place of meeting, at 7:00 p.m. on December 7, 2010.

Present: Mayor Ronnie K. Wall, presiding, and Council  
Members David Huffman,  
Jim Butler, Steve Ross and Celo Faucette.

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Absent: Council Members - None

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Also Present: City Manager Harold Owen, City Attorney Robert Ward, Finance Director Peggy Reece and City Clerk Jondeen Terry.

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Mayor Wall introduced the following order, the title of which was read and copies of which had been previously distributed to each Council Member:

**ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF BURLINGTON, NORTH CAROLINA OF ITS COMBINED ENTERPRISE SYSTEM REVENUE BONDS, SERIES 2010A AND COMBINED ENTERPRISE SYSTEM REVENUE BONDS, SERIES 2010B (TAXABLE BUILD AMERICA BONDS) AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH**

**BE IT ORDERED** by the City Council of the City of Burlington, North Carolina (the “City”):

**Section 1. The City Council does hereby find and determine as follows:**

(a) Pursuant to a Trust Agreement, to be dated as of December 1, 2010 (the “Trust Agreement”), between the City and U.S. Bank National Association, as trustee (the “Trustee”), the City will create a combined enterprise system (the “Combined Enterprise System”) which will initially consist of the City’s water system and sanitary sewer system. The Trust Agreement will provide for the issuance of revenue bonds thereunder to finance improvements to the Combined Enterprise System and to refund certain indebtedness of the City relating to the Combined Enterprise System. The revenue bonds issued under the Trust Agreement will be secured by the net receipts of the Combined Enterprise System as provided in the Trust Agreement.

(b) At a meeting held on November 2, 2010, the City Council authorized the filing of an application with the North Carolina Local Government Commission (the “LGC”) requesting approval of the issuance of revenue bonds of the City for the purpose of

providing funds, together with other available funds, to (i) pay the costs of acquiring, constructing and equipping certain improvements to the City's water system and sanitary sewer system, including, without limitation, the construction and installation of upgrades to the filtration system at the South Burlington Wastewater Treatment Plant and the repair and renovation of the Lake Cammack Dam and the Stony Creek Dam (collectively, the "Series 2010 Project"), (ii) refund all of the outstanding Certificates of Participation (Water and Sewer System Project), Series 2004 (the "Series 2004 Certificates") executed and delivered by the Burlington Public Facilities Financing Corporation for the benefit of the City, (iii) fund any necessary debt service reserve fund and (iv) pay certain other costs associated with the issuance and sale of such revenue bonds.

(c) The City, by resolution, also requested the LGC to sell such revenue bonds at private sale without advertisement.

(d) The LGC has approved the application of the City for the issuance of the Series 2010 Bonds (hereinafter defined) in an aggregate principal amount not to exceed \$23,700,000 in accordance with N.C.G.S. 159-86.

(e) The City has determined to issue its City of Burlington, North Carolina Combined Enterprise System Revenue Bonds, Series 2010A (the "Series 2010A Bonds") and City of Burlington, North Carolina Combined Enterprise System Revenue Bonds, Series 2010B (Taxable Build America Bonds) (the "Series 2010B Bonds" and, together with the Series 2010A Bonds, the "Series 2010 Bonds") in an aggregate principal amount not to exceed \$23,700,000 for the purpose of providing funds, together with other available funds, to (i) pay the costs of the Series 2010 Project, (ii) refund all of the Series 2004 Certificates, (iii) fund any necessary debt service reserve fund for the Series 2010 Bonds and (iv) pay certain other costs associated with the issuance and sale of the Series 2010 Bonds.

(f) The City proposes to sell the Series 2010 Bonds to Wells Fargo Bank, National Association and BB&T Capital Markets, a division of Scott & Stringfellow, LLC (collectively, the "Underwriters"), pursuant to the provisions of a Bond Purchase Agreement (hereinafter defined), at such prices determined by the LGC, subject to the approval thereof by the City.

(g) There have been presented to the City Council at this meeting drafts of the following documents relating to the issuance and sale of the Series 2010 Bonds:

(1) Trust Agreement;

(2) First Supplemental Trust Agreement, to be dated as of December 1, 2010 (the "First Supplemental Trust Agreement"), between the City and the Trustee;

(3) Bond Purchase Agreement, to be dated as of the date of delivery thereof (the "Bond Purchase Agreement"), among the Underwriters, the LGC and the City;

(4) Preliminary Official Statement, to be dated as of the date of delivery thereof (the "Preliminary Official Statement"),

relating to the offering and sale of the Series 2010 Bonds;  
and

- (5) Escrow Deposit Agreement, to be dated as of December 1, 2010 (the "Escrow Deposit Agreement"), between the City and U.S. Bank National Association, as escrow agent.

(h) The City has determined that the issuance and sale of the Series 2010 Bonds in the manner provided in this order is in the best interests of the City.

(i) The various maturities of the Series 2010B Bonds shall be designated by the City as "build America bonds" within the meaning of Section 54AA of the Internal Revenue Code of 1986, as amended (the "Code"). Interest on the Series 2010B Bonds so designated as "build America bonds" shall be includable in gross income for federal income tax purposes, and the City shall elect to receive to an interest subsidy credit equal to 35% of the interest payable on Series 2010B Bonds designated as "build America bonds" on each applicable interest payment date pursuant Section 54AA(g) and Section 6431 of the Code.

Section 2. Capitalized words and terms used in this order and not defined herein shall have the same meanings given such words and terms in the Trust Agreement and the First Supplemental Trust Agreement.

Section 3. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "Act"), particularly G.S. 159-88, the City hereby authorizes the issuance of the Series 2010 Bonds in an aggregate principal amount not to exceed \$23,700,000 for the purposes set forth in Section 1(e) of this order. The exact amount of Series 2010A Bonds and the Series 2010B Bonds to be issued shall be determined by the Director of Finance and Risk Management of the City at the time the Series 2010 Bonds are sold and shall be an amount sufficient, together with other available funds of the City, to (a) pay the costs of the Series 2010 Project, (b) refund all or a portion of the Series 2004 Certificates, (c) fund any necessary debt service reserve fund for the Series 2010 Bonds and (d) pay certain other costs associated with the issuance and sale of the Series 2010 Bonds. The Series 2010 Bonds shall mature at such times and in such amounts as shall be set forth in the Trust Agreement and the First Supplemental Trust Agreement, subject to the provisions of this order.

The Series 2010 Bonds shall be issued as fully registered bonds in denominations of \$5,000 or any whole multiple thereof and shall be subject to the provisions of the book-entry only system for registration of the Series 2010 Bonds as set forth in the First Supplemental Trust Agreement. Interest on the Series 2010 Bonds shall be payable on February 1 and August 1 of each year, beginning August 1, 2011, until the payment in full of the principal thereof. The final maturity of the Series 2010 Bonds shall not be later than December 31, 2036.

Section 4. The Series 2010 Bonds shall be subject to optional, extraordinary optional and mandatory sinking fund redemption at the times, upon the terms and conditions,



and at the prices as shall be set forth in the Trust Agreement and the First Supplemental Trust Agreement.

**Section 5.** The proceeds of the Series 2010 Bonds shall be applied as provided in Section 204 of the First Supplemental Trust Agreement.

**Section 6.** The Series 2010 Bonds, together with any other obligations secured on a parity therewith pursuant to the provisions of the Trust Agreement, shall be secured on a parity basis by a pledge, charge and lien upon the Net Receipts and the money and Investment Obligations held in the accounts and subaccounts of the Bond Fund in the manner and to the extent provided in the Trust Agreement and the First Supplemental Trust Agreement.

**Section 7.** The proposal set forth in the Bond Purchase Agreement submitted by the Underwriters offering to purchase the Series 2010 Bonds at the aggregate purchase price and bearing interest at the rates determined by the LGC and approved by the City as hereinafter provided, such purchase price not to be less than 98% of the aggregate principal amount of the Series 2010 Bonds (exclusive of any original issue discount), and such interest rates not to result in an aggregate true interest cost in excess of 4.95% per annum (taking into account any interest subsidy payments expected to be received with respect to the Series 2010B Bonds), is hereby approved. The Local Government Commission is hereby requested to sell and award the Series 2010 Bonds to the Underwriters on behalf of the City, subject to the approval of the City, in accordance with the terms and provisions set forth in the Bond Purchase Agreement. The Mayor, the City Manager and the Director of Finance and Risk Management of the City are each hereby designated to approve on behalf of the City the sale of the Series 2010 Bonds to the Underwriters at such interest rates, for such purchase price and upon such terms and conditions as the Mayor, the City Manager or the Director of Finance and Risk Management shall determine, subject to the provisions of this order. The Mayor, the City Manager and the Director of Finance and Risk Management of the City are each hereby authorized and directed in the name and on behalf of the City to execute and deliver the Bond Purchase Agreement in substantially the form presented at this meeting, together with such changes, additions and deletions as the Mayor, the City Manager or the Director of Finance and Risk Management, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

**Section 8.** The form, terms and provisions of the Trust Agreement, the First Supplemental Trust Agreement and the Escrow Deposit Agreement are hereby approved, and the Mayor or the City Manager are hereby authorized and directed to execute the Trust Agreement, the First Supplemental Trust Agreement and the Escrow Deposit Agreement in substantially the forms presented at this meeting, together with such changes, additions and deletions as the Mayor or the City Manager, with the advice of counsel, may deem necessary and appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the Series 2010 Bonds as set forth in the Bond Purchase Agreement, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and

content thereof. The City Clerk or any assistant or deputy City Clerk are hereby authorized and directed to attest the execution of the Trust Agreement, the First Supplemental Trust Agreement and the Escrow Deposit Agreement as may be required by such documents.

Section 9. The Preliminary Official Statement relating to the offering for sale of the Series 2010 Bonds is hereby approved in the form presented at this meeting. The use and distribution of the Preliminary Official Statement in connection with the offering for sale of the Series 2010 Bonds by the Underwriters is hereby approved. The City authorizes and consents to the preparation and distribution of a final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect the final terms of the Series 2010 Bonds. The Mayor, the City Manager and the Director of Finance and Risk Management of the City are each hereby authorized and directed to execute and deliver the final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes, additions and deletions as such officer, with the advice of counsel, may deem necessary and appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 10. The Mayor, the City Manager, the Director of Finance and Risk Management, the City Clerk and the City Attorney of the City, or any of them or their assistants or deputies, are each hereby authorized and directed (without limitation except as may be expressly set forth in this order) to take such action and to execute and deliver such certificates, agreements, instruments, opinions or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this order, the Trust Agreement, the First Supplemental Trust Agreement, the Escrow Deposit Agreement or the Bond Purchase Agreement.

The officers, agents and employees of the City are also hereby authorized and directed to do all acts and things required of them by the provisions of this order, the Series 2010 Bonds, the Trust Agreement, the First Supplemental Trust Agreement, the Escrow Deposit Agreement or the Bond Purchase Agreement for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 11. The Series 2004 Certificates maturing on April 1, 2019 and 2024 are hereby called for prepayment on April 1, 2014 in the manner set forth in the Escrow Deposit Agreement, subject to the issuance of the Series 2010 Bonds for the purpose of refunding the Series 2004 Certificates.

Section 12. The issuance and sale of the Series 2010 Bonds are hereby approved subject to the terms and conditions set forth in this order.

Section 13. This order shall take effect immediately upon its passage.

Upon motion of Council Member Ross, seconded by Council Member Huffman, the foregoing order entitled "ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE CITY OF BURLINGTON, NORTH CAROLINA OF ITS COMBINED ENTERPRISE SYSTEM REVENUE BONDS, SERIES 2010A AND COMBINED

ENTERPRISE SYSTEM REVENUE BONDS, SERIES 2010B (TAXABLE BUILD AMERICA BONDS) AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH” was passed by the following vote:

Ayes: Wall, Huffman, Butler, Ross and Faucette \_\_\_\_\_

Noes: None \_\_\_\_\_

#### PUBLIC COMMENT PERIOD

There were no public comments.

#### CITY COUNCIL COMMENTS

Mayor Wall:

- Congratulations to Chief Williams and the Police Department. Reaccreditation process went well.
- Council should send retreat discussion items to Mr. Owen by December 23, 2010. Retreat is January 27, 2010.
- Holiday Magic Downtown, December 10. Council is to meet at Occasions at 5:45 p.m. for the carriage ride.
- Cox Toyota ribbon cutting, December 8, at 1:00 p.m.
- Senior citizens luncheon at Elmira, December 8, at 11:30 a.m.
- Parks and Recreation luncheon, December 10, at noon at the Kernodle Senior Center.
- City holiday luncheon, December 16, from 11:30 a.m. to 1:00 p.m. at That-a-ways.
- Work session, December 20, at 7:00 p.m. at Kernodle Center.
- Council meeting, December 21, at 7:00 p.m.

Councilmember Faucette said the United Way car drawing would be Friday night, December 10, at Bella's Houses at 7:00 p.m. There are five City employees in the running for the car.

City Manager Owen said that City employees have donated over \$53,000 so far in 2010.

Councilmember Butler said the amount given by City employees was three to four times the average donation.

Mayor Wall expressed appreciation to staff for the work and preparation the annexation public hearings.

ADJOURN

Upon motion by Mayor Pro Tem Huffman, seconded by Councilmember Butler, it was resolved unanimously to adjourn.

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Jondeen D. Terry  
City Clerk